



Department of Justice

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JUSTICE DEPARTMENT WILL NOT OPPOSE AMERICAN TRUCKING ASSOCIATIONS' PROPOSAL

WASHINGTON — The Department of Justice announced today that it will not oppose a proposal by the American Trucking Associations Inc. (ATA) to develop and publicize model agreements for motor carriers and freight transportation brokers. The Department said the model agreements are not likely to be anticompetitive.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General for the Antitrust Division, to counsel for the ATA. The ATA is the national trade association representing the interests of motor carriers, state trucking associations, and national trucking conferences.

The ATA requested a business review letter from the Division expressing its enforcement intentions regarding the ATA's proposal to develop and publicize two model agreements for use between motor carriers and brokers that would contain terms commonly used in the industry. Motor carriers and transportation brokers can use the model agreements to negotiate the terms and conditions of contracts between them for the motor carriage of goods. The agreements contain clauses, among others, related to the shipment service to be rendered, liability for the cargo, and the role of indemnity if the service is not adequately performed. According to the request, the availability of such model agreements will ease the competitive disadvantage of small brokers brought about by the expense of drafting contracts with multiple carriers.

"Making the model agreements available to the trucking industry is not likely to reduce competition," Barnett said in the letter. "The model agreements do not contain any provisions specifying rates to be charged or other competitively significant terms, and use of the agreements or any of their provisions will be left to the determination of each company acting independently."

In the proposal, the ATA stated that both motor carriers and brokers will be able to use the model agreements or any of their provisions during contract negotiations. The ATA represented that all of the rate-related and other competitively significant terms of the model agreements will be left blank, to be negotiated individually by the parties, and that the model agreements will be discretionary such that the motor carriers and brokers can individually decide whether to incorporate their terms.

Under the Department's business review procedure, an organization may submit a

proposed action to the Antitrust Division and receive a statement as to whether the Division would challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, Department of Justice, Suite 215, Liberty Place, 325 7th Street, N.W., Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to Paragraph 10(c) of the Business Review Procedure, 28, C.F.R. § 50.6.

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